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Cook County Recorder

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THIS INSTRUMENT WAS PREPARED
BY AND AFTER RECORDING RETURN
TO:

Thomas A. Graham
Illinois Housing Development
Authority
401 N. Michigan Ave., Ste 900
Chicago, Illinois 60611



0021419233

210390

HTF 1655

JUNIOR MORTGAGE AND
ASSIGNMENT OF RENTS AND LEASES

This JUNIOR MORTGAGE AND ASSIGNMENT OF RENTS AND LEASES (this "Mortgage"), dated as of the first (1st) day of December, 2002, made by WEST MAYPOLE, L.P. ("Mortgagor"), an Illinois limited partnership, to the ILLINOIS HOUSING DEVELOPMENT AUTHORITY ("Mortgagee"), a body politic and corporate established pursuant to the Illinois Housing Development Act, 20 ILCS 3805/1 et seq., as amended from time to time (the "Act"), and the rules promulgated under the Act, as amended and supplemented (the "Rules");

W I T N E S S E T H:

WHEREAS, Mortgagor is the leasehold owner of certain real property comprised of an east parcel (the "East Parcel") and a west parcel (the "West Parcel") and upon which a housing development will be constructed, located in Chicago, Illinois. Such real property is legally described in Exhibit A attached to and made a part of this Mortgage (the "Real Estate"); the Real Estate and the improvements constructed on it are referred to in this Mortgage as the "Premises"; and

WHEREAS, West Maypole Partners, LLC, is the sole general partner of Mortgagor (the "General Partner");

WHEREAS, Mortgagee is the program administrator of the Illinois Affordable Housing Program, as that program is authorized by the Illinois Affordable Housing Act, 310 ILCS 65/1 et seq., as amended from time to time (the "Trust Fund Act"), and the rules promulgated under the Trust Fund Act (the "Trust Fund Rules"); and

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WHEREAS, Mortgagee has agreed to make a loan to Mortgagor in the amount of Seven Hundred Fifty Thousand and No/100 Dollars (\$750,000.00) (the "Loan"), to be used with other monies for the acquisition, construction and permanent financing of the Development (as hereinafter defined); and

WHEREAS, contemporaneously with the execution and delivery of this Mortgage, Mortgagor has executed and delivered to Mortgagee its mortgage note (together with any renewals, modifications, extensions, amendments and replacements, the "Note") of even date herewith, as evidence of its indebtedness to Mortgagee in the principal sum of SEVEN HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$750,000.00) or so much of that sum as Mortgagee may hereafter advance upon the Loan to Mortgagor, with interest at the rates and payable at the times and in the manner as specified in the Note;

WHEREAS, the Loan is evidenced, secured and governed by, among other things: (a) the Conditional Commitment Letter from Mortgagee to or for the benefit of Mortgagor dated November 8, 2002 (the "Commitment"), (b) the Note, (c) this Mortgage, (d) the Regulatory and Land Use Restriction Agreement of even date herewith executed by Mortgagor and Mortgagee (the "Regulatory Agreement") and (e) the Environmental Indemnity executed by Mortgagor and the General Partner, as indemnitor, and delivered to Mortgagee, as indemnitee (the "Environmental Indemnity"). This Mortgage, the Commitment, the Note, the Regulatory Agreement, the Environmental Indemnity, and all other documents executed by Mortgagor that evidence, govern or secure the Loan are sometimes collectively referred to as the "Loan Documents"; and

WHEREAS, financial assistance for the Development (as defined herein) will be provided by the United States Department of Housing and Urban Development ("HUD") under the U.S. Housing Act of 1937 (42 U.S.C. 1437, et seq.) (the "1937 Act") with respect to the 87 public housing units included in the Development (the "Project PHUs") and, in exchange for such assistance, the Mortgagor will agree to develop, operate and maintain such Project PHUs in accordance with all requirements applicable to public housing, including the 1937 Act, HUD regulations thereunder (and, to the extent applicable, any HUD-approved waivers of regulatory requirements), the Annual Contributions Contract executed between the CHA Senior Lender and HUD ("ACC"), the Mixed Finance Amendment adding the Project Units to the ACC ("MFAACC"), that certain HOPE VI grant agreement, the Declaration of Restrictive Covenants and all pertinent Federal statutory, executive order and regulatory requirements, as those requirements may be amended from time to time (all such requirements hereafter collectively referred to as the "Applicable Public Housing Requirements");

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NOW, THEREFORE, Mortgagor, to secure the (a) payment of the indebtedness evidenced by the Note (the "Mortgage Debt"), which includes, but is not limited to, (i) so much of the Loan as Mortgagee may hereafter advance to Mortgagor and (ii) any and all other costs and expenses of Mortgagee attributable to Mortgagor, as determined by Mortgagee, pursuant to the Note and this Mortgage (as to which the Note shall control and prevail), such payments all to be made at the rates, times, manner and place specified and set forth in the Note; and (b) performance and observance of all of the provisions of this Mortgage and the other Loan Documents, does by these presents **MORTGAGE AND WARRANT** and grant a security interest in the Premises and all of its estate, title and interest in the Premises to Mortgagee, its successors and assigns (the Premises, together with the property described in the next succeeding paragraph, are referred to as the "Development").

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances now or hereafter belonging to it, and all rents, issues and profits of the Premises for so long and during all such times as Mortgagor may be entitled to them (which are pledged primarily and on a parity with the Premises and not secondarily), including, without limiting the foregoing: (a) if and to the extent owned by Mortgagor: all fixtures, fittings, furnishings, appliances, apparatus, equipment and machinery, including, without limitation, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, ovens, elevators and motors, bathtubs, sinks, water closets, basins, pipes, faucets and other air-conditioning, plumbing and heating fixtures, mirrors, mantles, refrigerating plants, refrigerators, ice-boxes, dishwashers, carpeting, furniture, laundry equipment, cooking apparatus and appurtenances, and all building material, supplies and equipment now or hereafter delivered to the Premises and intended to be installed in it; all other fixtures and personal property of whatever kind and nature at present contained in or hereafter placed in any building standing on the Premises; such other goods, equipment, chattels and personal property as are usually furnished by landlords in letting other premises of the character of the Premises and placed in or located upon the Premises; and all renewals or replacements, or articles in substitution thereof; and all proceeds and profits of the Premises and all of the estate, right, title and interest of Mortgagor in and to all property of any nature whatsoever, now or hereafter situated on the Premises, or intended to be used in connection with the operation of the Premises; (b) all of the right, title and interest of Mortgagor in and to any fixtures or personal property subject to a lease agreement, conditional sale agreement, chattel mortgage, or security agreement, and all deposits made thereon or therefor, together with the benefit of any payments now or hereafter made thereon; (c) all leases and use agreements of machinery, equipment and other personal property of Mortgagor in

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the categories hereinabove set forth, under which Mortgagor is the lessee of, or entitled to use, such items; (d) all rents, income, profits, revenues, royalties, security deposits, bonuses, rights, accounts, accounts receivable, contract rights, general intangibles and benefits and guarantees under any and all leases or tenancies now existing or hereafter created with respect to the Premises, or any part of them, with the right to receive and apply the same to indebtedness due Mortgagee; Mortgagee may demand, sue for and recover such payments, but shall not be required to do so; (e) all documents, books, records, papers and accounts of Mortgagor relating to all or any part of the Premises; (f) all judgments, awards of damages and settlements hereafter made as a result of, or in place of, any taking of the Premises, or any part of it or interest in them, under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Premises or the improvements to them or any part of it or interest in them, including any award for change of grade of streets; (g) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims; (h) any monies on deposit for the payment of real estate taxes or special assessments against the Premises or for the payment of premiums on policies of fire and other hazard insurance covering the Premises, and all proceeds paid for damage done to the Premises; and (i) all the right, title and interest of Mortgagor in and to beds of the streets, roads, avenues, lanes, alleys, passages and ways, and any easements, rights, liberties, hereditaments and appurtenances whatsoever belonging to or running with, on, over, below or adjoining the Premises; the enumeration of any specific articles of property shall in no way exclude or be held to exclude any items of property not specifically mentioned. All of the land, estate and property hereinabove described, real, personal and mixed, whether affixed or annexed or not (except where otherwise hereinabove specified), and all rights conveyed and mortgaged by this Mortgage are intended to be conveyed and mortgaged as a unit and are understood, agreed and declared to form a part and parcel of the Development and to be appropriated to the use of the Development, and shall be deemed to be the Development and conveyed and mortgaged by this Mortgage. As to the above personal property, which the Illinois Uniform Commercial Code (the "Code") classifies as fixtures, this instrument shall constitute a fixture filing under the Code.

TO HAVE AND TO HOLD the Development unto Mortgagee, its successors and assigns, forever, for the purposes and uses set forth in this Mortgage, under and subject to the rights of the Senior Lenders.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Recitals.

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All of the foregoing recitals are made a part of this Mortgage.

2. Incorporation of Other Documents.

The other Loan Documents are each incorporated by reference into and made a part of this Mortgage.

2A. Future Advances.

Mortgagee has bound itself to make advances pursuant to and subject to the terms of the Commitment, and Mortgagor acknowledges that all such advances, including future advances whenever made, shall be a lien from the time this Mortgage is recorded, as provided in Section 15-1302(b)(1) of the Illinois Foreclosure Law, 735 ILCS 5/15 et seq., as amended from time to time (the "Foreclosure Law").

3. Maintenance, Repair and Restoration of Improvements, Payment of Senior Liens, etc.

Mortgagor shall, subject to the rights of the Senior Lenders (as defined in Paragraph 9 hereof), (a) upon receipt of insurance proceeds therefor, promptly repair, restore or rebuild any buildings or improvements now or hereafter situated on the Development that may be damaged or destroyed; (b) following completion of the construction or improvement of the Development, keep the Development in good condition and repair, without waste, and free from mechanics liens or other liens or claims for lien not expressly subordinated to the lien of this Mortgage or contested in accordance with the terms of this Mortgage; Mortgagor may contest the validity or amount of any such lien in good faith, so long as Mortgagor posts a bond or other security reasonably satisfactory to Mortgagee and otherwise complies with all applicable laws, rules and regulations governing such contest; (c) pay when due, including any applicable grace or cure periods, any indebtedness that may be secured by a lien or charge on the Development superior to the lien of this Mortgage, including the Senior Mortgages (as defined in Paragraph 9 hereof) or any other senior lien approved by Mortgagee, and upon request, exhibit satisfactory evidence of the discharge of such senior lien to Mortgagee; (d) obtain all federal, state and local governmental approvals required by law for the acquisition, construction, ownership and operation of the Development; (e) complete, within a reasonable time, any building or other improvements now or at any time in process of erection upon the Development; (f) cause the Development to comply in all material respects with all requirements of law, municipal ordinances or restrictions of record with respect to the Development and its use; (g) make no alterations in the Development without Mortgagee's written approval, which approval shall not be

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unreasonably withheld or delayed, which approval is granted with respect to the improvements financed in whole or in part by the Loan and the Senior Loans (as defined in **Paragraph 9** hereof); (h) following completion of the construction of the Development, suffer or permit no change in the general nature of the occupancy of the Development without Mortgagee's written consent, which consent shall not be unreasonably withheld; (i) not initiate or acquiesce in any zoning variation or reclassification of the Development without Mortgagee's written consent, which consent shall not be unreasonably withheld and (j) pay each item of the Mortgage Debt when due according to the terms of this Mortgage or the Note.

4. Insurance.

Mortgagor shall keep all buildings, improvements, fixtures and articles of personal property now or hereafter situated on the Development continuously insured against loss or damage by fire or other hazards, and such other appropriate insurance as may be reasonably required by Mortgagee, all in form and substance reasonably satisfactory to Mortgagee, including, without limitation, rent loss insurance, business interruption insurance and flood insurance (if and when the Development lies within an area designated by an agency of the federal government as a flood risk area). Mortgagor shall also provide liability insurance with such limits for personal injury and death and property damage as Mortgagee may reasonably require. All such policies of insurance shall be in forms, amounts and with companies satisfactory to Mortgagee, with mortgagee loss payable clauses or endorsements attached to all policies in favor of and in form satisfactory to Mortgagee, including a provision requiring that the coverage evidenced by such policies shall not be terminated or materially modified without thirty (30) days' prior written notice to Mortgagee; such insurance policies shall name Mortgagee as loss payee, subject to the rights of the Senior Lenders as senior mortgagees. Mortgagor shall deliver copies of all policies, including additional and renewal policies, to Mortgagee, and shall deliver copies of renewal policies or other evidence of renewal to Mortgagee not less than ten (10) days prior to the respective dates of expiration of such policies. Mortgagor shall, upon notice from Mortgagee, immediately reimburse Mortgagee for any premiums paid for insurance procured by Mortgagee and reasonably deemed necessary by Mortgagee due to Mortgagor's failure to provide insurance as required under this **Paragraph 4**, to secure its interest under this Mortgage. From and after the date of entry of any judgment of foreclosure, all rights and powers conferred on Mortgagee by this **Paragraph 4** shall continue in Mortgagee as judgment creditor or mortgagee until confirmation of sale of the Development.

5. Adjustment of Losses With Insurer and Application of Proceeds of Insurance.

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In case of loss or damage by fire or other casualty, and subject to the terms of the documents securing the Senior Loans, Mortgagor is authorized to settle and adjust any claim under insurance policies that insure against such risks, subject to the approval of Mortgagee. If at the time of loss or damage there exists a Default (as that term is defined in **Paragraph 11** hereof, subject to all applicable grace and cure periods) with respect to matters relating to things other than payment of the obligations under the Note or a default that, with the passage of any applicable cure or grace period, would become a Default, Mortgagee is authorized to settle and adjust any claim under insurance policies which insure against such risks, subject to the rights of the Senior Lenders. Mortgagee, subject to the consent of the Senior Lenders, is authorized to collect and issue a receipt for any such insurance money. Such insurance proceeds shall be held by Mortgagee at the direction and for the benefit of the Senior Lenders and shall be used to pay directly or reimburse Mortgagor for the cost of the rebuilding of buildings or improvements on the Development. Whether or not such insurance proceeds are adequate for such purpose, the Development shall be restored, repaired or rebuilt by Mortgagor so as to be of at least equal value and substantially the same character as prior to such damage or destruction. If the cost of rebuilding, repairing or restoring the Development can reasonably be expected to exceed the sum of Fifty Thousand and No/100 Dollars (\$50,000.00), then Mortgagor shall obtain the written consent of Mortgagee to the plans and specifications of such work before such work is begun, which consent shall not be unreasonably withheld or delayed. In any case where the insurance proceeds are made available for repairing and rebuilding the Development, such proceeds shall be disbursed in the manner and under the conditions that Mortgagee may reasonably require, subject to the rights of the Senior Lenders, provided Mortgagee is furnished with (i) satisfactory evidence of the estimated cost of completion of such work and (ii) architect's certificates, waivers of lien, contractor's and subcontractors' sworn statements and other evidence of cost and payments so that Mortgagee can verify that the amounts disbursed in connection with such work are free and clear of mechanics lien or other lien claims, other than those contested in accordance with this Mortgage. If the estimated cost of completion exceeds the amount of the insurance proceeds available, subject to the rights of the Senior Lenders, Mortgagor shall, within thirty (30) days following written demand of Mortgagee, deposit with Mortgagee in cash the amount of such estimated excess cost. No payment made prior to the final completion of the work performed shall exceed ninety percent (90%) of the value of the work performed from time to time, and at all times, the undisbursed balance of such proceeds remaining in the hands of the disbursing party shall be at least sufficient to pay for the cost of completion of the work, free and clear of any

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liens. Subject to the rights of the Senior Lenders, any surplus that may remain out of the insurance proceeds after payment of costs of rebuilding, repairing or restoring the Development shall, at the option of Mortgagee, be applied toward the Mortgage Debt or be paid to any party entitled to it, without interest. Any additional monies advanced by Mortgagee to Mortgagor for the repairing, rebuilding or restoring of the Development shall be added to the Mortgage Debt and shall be secured by this Mortgage. Notwithstanding anything to the contrary contained herein, if there is a conflict with respect to the restoration of the Development after a casualty or condemnation between this Mortgage and Section 10 of the MFAACC, the provisions of Section 10 of the MFAACC shall control.

6. Payment of Taxes, Insurance Premiums and Utility Charges.

Mortgagor shall pay when due all real estate taxes, assessments, water rates, sewer, gas or electric charges, insurance premiums and any imposition or lien on the Development. If Mortgagor fails to make any such payment, Mortgagee may, at its option, after the expiration of any applicable cure period and upon reasonable prior written notice to Mortgagor, pay them. The sum or sums so paid by Mortgagee shall be added to the Mortgage Debt and shall bear interest at the Default Rate, as stated in the Note. Mortgagee shall have the right to declare immediately due and payable the amount of any such payment made by Mortgagee, whether or not such payment has priority over this Mortgage. Mortgagor shall, upon written request of Mortgagee, furnish to Mortgagee duplicate receipts evidencing payment of taxes and assessments, insurance premiums and utility charges. Notwithstanding the foregoing, Mortgagor may contest the validity or amount of any real estate taxes, assessments, rates, charges, premiums, impositions or liens in good faith; however, Mortgagor shall deposit with Mortgagee, subject to the rights of the Senior Lenders, an amount deemed reasonably necessary by Mortgagee to pay such taxes, assessments, rates, charges, premiums, impositions or liens should the Mortgagor's challenge fail.

7. Limitations on Sale, Assignments, Transfers, Encumbrances and Control.

(a) Mortgagor recognizes that in determining whether or not to make the Loan, Mortgagee evaluated the background and experience of Mortgagor in owning and operating property such as the Development, found them acceptable and relied and continues to rely upon them as the means of maintaining the value of the Development, which is Mortgagee's primary security for the Note. Mortgagor is experienced in borrowing money and owning and operating property such as the Development, has been ably represented by a licensed

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attorney at law in the negotiation and documentation of the Loan and bargained at arm's length and without duress of any kind for all of the terms and conditions of the Loan, including the provisions of this **Paragraph 7**. Mortgagor recognizes that Mortgagee is entitled to keep its loan portfolio at current interest rates by, among other things, making new loans at such rates. Mortgagor further recognizes that any further financing placed upon the Development, other than the Senior Loans, (i) could divert funds that would otherwise be used to pay the Note, (ii) could result in acceleration and foreclosure of such further encumbrance, which would force Mortgagee to take measures and incur expenses to protect its security under this Mortgage, (iii) would detract from the value of the Development should Mortgagee come into possession of it with the intention of selling it and (iv) would impair Mortgagee's right to accept a deed in lieu of foreclosure, because a foreclosure by Mortgagee would be necessary to clear the title to the Development.

In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security for the repayment of the Loan, the value of the Development, the payment of the Mortgage Debt and performance of Mortgagor's obligations under the Loan Documents; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; and (iii) keeping the Development free of subordinate financing liens, Mortgagor agrees that if this **Paragraph 7** is deemed a restraint on alienation, it is a reasonable one. Mortgagor shall not, without the prior written consent of Mortgagee, create, effect, consent to, suffer or permit any "Prohibited Transfer" (as hereinafter defined). A "Prohibited Transfer" shall include any sale or other conveyance, transfer, lease or sublease, mortgage, refinancing, assignment, pledge, grant of a security interest, grant of any easement, license or right-of-way affecting the Development, any hypothecation or other encumbrance of the Development, any interest in the Development, or any interest in Mortgagor's interest in the Development, or any interest in Mortgagor, in each case whether any such Prohibited Transfer is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise. However, Mortgagor may, without the prior written approval of Mortgagee:

- (i) grant rights required by the Senior Loan Documents;
- (ii) grant easements, licenses or rights-of-way over, under or upon the Development, so long as such easements, licenses or rights-of-way do not diminish the value or usefulness of the Development;
- (iii) when and to the extent authorized by law,

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lease the Development, or a portion of it, to a third party for the purposes of operating it; any such lease shall be subject to all of the terms, provisions and limitations of this Mortgage relating to the Development;

- (iv) sell or exchange any portion of the Real Estate not required for the Development, provided that the proceeds derived by Mortgagor from the sale of any such Real Estate shall be, at the option of Mortgagee, paid over to Mortgagee and applied by Mortgagee to reduce the Mortgage Debt;
- (v) sell, transfer or otherwise convey limited partnership interests in Mortgagor; and
- (vi) mortgage, assign, pledge and / or grant a subordinate interest in the Development pursuant to a subordinate loan under the Federal Home Loan Bank's Affordable Housing Program (the "AHP Loan").

Mortgagee's written approval as required in this subparagraph 7(a) shall be granted, conditioned or withheld as Mortgagee alone shall determine; however, with respect to sales, transfers, conveyances or other changes of the General Partner, Mortgagee's consent shall not be unreasonably withheld or delayed and further provided that Mortgagee shall be deemed to have consented to a change in the General Partner pursuant to the partnership agreement (the "Partnership Agreement") where the new General Partner is The Richman Group Capital Corporation (the "Special Limited Partner") or an entity controlled by the Special Limited Partner. The burden of proof concerning reasonableness of delay shall be on Mortgagor.

(b) In addition to the matters set forth above, any sale, conveyance, assignment, pledge, hypothecation or other transfer of all or any part of:

- (i) any right to manage or receive the rents and profits from the Development; or
- (ii) any general partnership interest other than a transfer to the Special Limited Partner under the terms of the Partnership Agreement, stock ownership interest or other interest in an entity or person comprising Mortgagor under this Mortgage, including, but not limited to the General Partner, except limited

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partnership interests in Mortgagor,

shall be deemed a sale, conveyance, assignment, hypothecation or other transfer for the purposes of the restrictions imposed by the foregoing **subparagraph 7(a)**. Furthermore, Mortgagor shall not, without the prior written consent of Mortgagee, permit the transfer of "control" of the Development to any other person or legal entity, other than to the Special Limited Partner as provided above. For the purposes of the foregoing sentence, the term "control" shall mean the power to direct or cause the direction of the management and policies of the Development by the voting of securities or by contract.

Notwithstanding anything in this Mortgage to the contrary, Mortgagor shall have the right, subject to Mortgagee's prior written approval, which shall not be unreasonably withheld, to sell the Development and assign this Mortgage and Mortgagor's right, title and interest in the other Loan Documents to another owner-mortgagor of the Development. In the event of a sale or other transfer of the Development, all of the duties, obligations, undertakings and liabilities of Mortgagor or other transferor (the "Transferor") under the terms of this Mortgage shall thereafter cease and terminate as to the Transferor, except as to any acts or omissions or obligations to be paid or performed by the Transferor that occurred or arose prior to such sale or transfer. As a condition precedent to the termination of the liability of the Transferor under this Mortgage, the transferee of the Development (a "New Mortgagor"), as a condition precedent to its admission as a New Mortgagor, shall assume in writing, on the same terms and conditions as apply to the Transferor, all of the duties and obligations of the Transferor arising under this Mortgage from and after the date of such sale or transfer. Such assumption shall be in form and substance acceptable to the Mortgagee. Any such New Mortgagor shall not be obligated with respect to matters or events that occur or arise before its admission as a New Mortgagor. The assumption transaction and any documents pertaining to it deemed necessary by Mortgagee shall be in form and substance satisfactory to Mortgagee.

The provisions of this **Paragraph 7** shall not apply to (i) liens securing the Senior Loans, (ii) the lien of current taxes and assessments not yet due or payable, (iii) liens or encumbrances specifically permitted by, or contested in accordance with, the terms of this Mortgage, (iv) residential leases of individual units of the Development entered into in the ordinary course of business, if such leases have been entered into in conformity with the Regulatory Agreement, (v) the exceptions set forth on Schedule B to the title policy approved by Mortgagee, (vi) that certain Regulatory Agreement or Agreements executed by and between Mortgagor and the City of Chicago (the "City") and Mortgagee in

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connection with the provision of the low-income housing tax credits to the East Parcel and the West Parcel by the City and (vii) that certain Declaration of Restrictive Covenants by and between the Borrower and the Chicago Housing Authority. Mortgagor acknowledges that any agreements, liens or encumbrances created in violation of the provisions of this **Paragraph 7** shall, at the option of Mortgagee, constitute a Default, and to the extent the provisions of this **Paragraph 7** conflict with or are inconsistent with similar provisions of the Note or any of the other Loan Documents, the provisions of this **Paragraph 7** shall govern and control.

8. Acknowledgment of Mortgage Debt.

Mortgagor, within five (5) business days from the receipt of written notice from Mortgagee, shall furnish to Mortgagee a written statement, duly acknowledged, of the amount advanced to it which is secured by this Mortgage, and the amount due to Mortgagee in order to release this Mortgage, and whether any offsets or defenses exist against the Mortgage Debt.

9. Subordination.

a. Senior Loans. This Mortgage shall be subject and subordinate in all respects to that certain mortgage (the "First Senior Mortgage") dated as of December 1, 2002 from Mortgagor to the Chicago Housing Authority (the "First Senior Lender") recorded with the Recorder of Deeds of Cook County (the "Recorder's Office"), that certain mortgage (the "Third Senior Mortgage") dated as of December 1, 2002 from Mortgagor to the Chicago Housing Authority (the "Third Senior Lender") recorded with the Recorder's Office (the "First Senior Lender" and the "Third Senior Lender" are sometimes otherwise referred to herein as the "CHA Senior Lender"), that certain Junior Leasehold Construction Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement (the "Senior Bridge Loan Mortgage") dated as of December 1, 2002 from Mortgagor to Bank of America, N.A. (the "Senior Bridge Loan Lender") and that certain Mortgage (the "Fourth Senior Mortgage") dated as of December 1, 2002 from Mortgagor to the City of Chicago (the "Fourth Senior Lender"). The First Senior Lender, Third Senior Lender, the Senior Bridge Loan Lender and the Fourth Senior Lender shall hereinafter be referred to as the "Senior Lenders" (the First Senior Mortgage, the Third Senior Mortgage, the Senior Bridge Loan Mortgage and the Fourth Senior Mortgage are hereinafter referred to collectively as the "Senior Mortgages"). The First Senior Mortgage secures indebtedness in the original principal amount of Three Million Five Hundred Sixty Thousand and No/100 Dollars (\$3,560,000.00) (the "First Senior Loan"). The Third Senior Mortgage secures indebtedness in the original principal

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amount of Thirteen Million Four Hundred Fifty Thousand Six Hundred Forty-Four and No/100 Dollars (\$13,450,644.00) (the "Third Senior Loan"). The Senior Bridge Loan Mortgage secures indebtedness in the original principal amount of Twenty-One Million Eight Hundred Fourteen Thousand Six Hundred Fifty-One and No/100 Dollars (\$21,814,651.00) (the "Senior Bridge Loan"). The Fourth Senior Mortgage secures indebtedness in the amount of Eight Million Five Hundred Thousand and No/100 Dollars (\$8,500,000.00) (the "Fourth Senior Loan"). The First Senior Loan, the Third Senior Loan, the Senior Bridge Loan and the Fourth Senior Loan are hereinafter referred to collectively as the "Senior Loans"; the Senior Mortgages and all other documents evidencing, securing or governing the Senior Loans are hereinafter collectively referred to as the "Senior Loan Documents."

B. Covenants in Connection with the HUD Documents and the Senior Loan Documents.

1. Mortgagor agrees to comply with all of the terms of the documents it has entered into with HUD in connection with the Development (the "HUD Documents") and the Senior Loan Documents. If Mortgagor defaults in the performance of any term or provision contained in the Senior Loan Documents beyond any applicable cure periods, the owner or holder of the Note may after written notice to Mortgagor, but shall not be obligated to, pay any principal or interest due under the Senior Loan Documents.

2. Mortgagor shall give Mortgagee a copy of all notices of default received by Mortgagor with respect to any of the Senior Loan Documents within five (5) days after receiving such notices.

3. Mortgagor shall not modify, extend or amend the Senior Loan Documents, increase the amount of the indebtedness secured thereby or incur additional indebtedness (other than the AHP Loan) secured by a lien against any or all of the Development without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld or delayed. So long as the Senior Loan Documents are in full force and effect, in the event of any conflict between the provisions of the Loan Documents and those of the Senior Loan Documents, the provisions of the Senior Loan Documents shall control. Any waiver or forbearance by the Senior Lenders of any right or remedy under the Senior Loan Documents shall not impair the priority of its respective lien under the Senior Loan Documents.

C. Default under Senior Loan Documents; Mortgagee's Right to Cure. If Mortgagor is declared by the holder of the Senior Loan Documents to be in default beyond any applicable cure periods with respect to any requirement of any of the Senior Loan Documents,

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Mortgagor agrees that such default shall constitute a Default. Upon the occurrence of such Default, in addition to any other rights or remedies available to Mortgagee pursuant to the Loan Documents, and subject to the terms of the Senior Loan Documents, Mortgagee may, but need not, make any payment or perform any act required to cure or attempt to cure any such default that may occur and continue beyond any applicable cure period under any of the Senior Loan Documents in any manner and form deemed expedient by Mortgagee after written notice to Mortgagor and subject to **Paragraph 12** hereof. Mortgagee shall not be responsible for determining the validity or accuracy of any claim of default made by the Senior Lenders under the Senior Loan Documents and the payment of any sum by Mortgagee in curing or attempting to cure any such alleged default or omission shall be presumed conclusively to have been reasonable, justified and authorized. Mortgagor grants to Mortgagee an irrevocable power of attorney, which power of attorney is coupled with an interest, for the term of the Mortgage to cure any default or forfeiture that may occur and be continuing beyond the expiry of any applicable cure or grace period under the Senior Loan Documents. Mortgagor further agrees to execute a formal and recordable power of attorney, which power of attorney shall be released by Mortgagee upon full payment of the Mortgage Debt, granting such right at any time during the existence of this Mortgage if requested by Mortgagee. All monies paid by Mortgagee in curing any default under the Senior Loan Documents, including reasonable attorneys' fees and costs in connection therewith, shall bear interest from the date or dates of such payment at the Default Rate as described in the Note, shall be paid by Mortgagor to Mortgagee on demand, and shall be deemed a part of the Mortgage Debt and recoverable as such in all respects. Any inaction on the part of Mortgagee shall not be construed as a waiver of any right accruing to Mortgagee on account of any default under the Senior Loan Documents.

D. Mortgagee's Right to Prepay Senior Loans. Subject to the terms and conditions of the Senior Loan Documents, in the event of a default under any of the Senior Loan Documents, subject to the applicable notice and cure periods, Mortgagee may prepay the entire balance due under such Senior Loan Documents, and any prepayment fees or penalty incurred by Mortgagee in connection with such prepayment shall bear interest from the date of such payment at the Default Rate, as described in the Note, shall be paid by Mortgagor to Mortgagee upon demand, and shall be deemed a part of the Mortgage Debt and recoverable in all respects.

10. Assignment of Rents and Leases.

As additional security for the payment of the Note, and for the faithful performance of the terms and conditions of this Mortgage, Mortgagor, subject to the rights of the Senior Lenders,

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assigns to Mortgagee all of its right, title and interest as landlord in all current and future leases of the Development (the "Leases") and to any rents due and Mortgagor's rights in all security deposits (held by Mortgagor) under the Leases (the "Assignment"). Notwithstanding anything in this Mortgage to the contrary, so long as there exists no Default, Mortgagor shall have the right to collect all rents, security deposits, income and profits from the Development and to retain, use and enjoy them.

Nothing in this Mortgage or any of the other Loan Documents shall be construed to obligate Mortgagee, expressly or by implication, to perform any of the covenants of any landlord under any of the Leases or to pay any sum of money or damages that the Leases require the landlord to pay. Mortgagor agrees to perform and pay each and all of such covenants and payments.

Subject to the rights of the Senior Lenders, from and after a Default that is continuing, subject to all applicable notice and cure periods, Mortgagee, in addition to the remedies set forth in **Paragraph 12** hereof, is vested with full power to use all measures, legal and equitable, it deems necessary or proper to enforce this Assignment and to collect the rents, income and profits assigned under this Mortgage. Such power shall include the right of Mortgagee or its designee to enter upon the Development, or any part of it, with power to eject or dispossess tenants, subject to applicable law, and to rent or lease any portion of the Development on any terms approved by Mortgagee, and take possession of all or any part of the Development together with all personal property, fixtures, documents, books, records, papers and accounts of Mortgagor relating to it, and to exclude Mortgagor, its agents, and servants, wholly from it. Mortgagor grants full power and authority to Mortgagee to exercise all rights, privileges and powers granted by this Assignment at any and all times from and after such Default, with full power to use and apply all of the rents and other income granted by this Assignment to the payment of the costs of managing and operating the Development and of any indebtedness or liability of Mortgagor to Mortgagee. Such costs shall include, but are not limited to, the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the Development or of making it rentable, reasonable attorneys' fees incurred in connection with the enforcement of this Mortgage, and of principal and interest payments due from Mortgagor to Mortgagee on the Note and the Mortgage, all in such order as Mortgagee may reasonably determine. Mortgagee shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it under this **Paragraph 10** or to perform or carry out any of the obligations of the landlord under any of the Leases, and Mortgagee does not assume any of the liabilities in connection with or arising or growing out of the covenants and agreements of Mortgagor in the Leases until

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Mortgagee forecloses the Mortgage, or acquires title to the Development through deed in lieu of foreclosure, and takes physical possession of the Development. Mortgagor agrees to indemnify Mortgagee and to hold it harmless from any liability, loss or damage, including, without limitation, reasonable attorneys' fees, that Mortgagee may incur under the Leases or by reason of this Assignment and from any and all claims and demands whatsoever that may be asserted against Mortgagee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of the Leases, except for those liabilities, losses or damages that occur due to Mortgagee's gross negligence or willful misconduct or in connection with Leases entered into by Mortgagee. Mortgagee shall not be responsible for the control, care, management or repair of the Development or parts of it, nor shall Mortgagee be liable for the performance of any of the terms and conditions of any of the Leases, or for any waste of the Development by any tenant under any of the Leases or by any other person, or for any dangerous or defective condition of the Development or for any negligence in the management, upkeep, repair or control of the Development resulting in loss or injury or death to any lessee, licensee, employee or stranger until such time as Mortgagee forecloses the Mortgage and takes physical possession of the Development. Mortgagee shall be responsible and liable only for its own actions or omissions occurring after such foreclosure and possession.

10A. Covenants, Representations and Warranties Regarding Ground Lease; Priority of Lien.

a. Leasehold Estate.

Mortgagor covenants, represents and warrants that the Ground Lease is a valid and subsisting lease covering the property and interests described therein and purported to be demised thereby for the term therein set forth, that the Ground Lease is a recorded interest against the Real Estate which will enable Mortgagee to assume an interest of record, that the Ground Lease is in full force and effect and unmodified in accordance with the terms thereof, that there are no assignments of the Ground Lease by Mortgagor except for those collateral assignments given to Mortgagee as additional security under this Mortgage and to Senior Lenders as additional security for the Senior Loans, and that there are no facts presently existing which, with the passage of time, or the giving of notice, or both, would give rise to a default by Mortgagor, as lessee under the Ground Lease. Mortgagor further covenants, represents and warrants that, to the best knowledge of Mortgagor, there are no facts presently existing which, with the passage of time, or the giving of notice, or both, would give rise to a default by the Ground Lessor, as lessor under the Ground Lease.

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b. Ongoing Covenants with Respect to Ground Lease

Mortgagor covenants and agrees that it shall pay or cause to be paid all rents, additional rents, taxes, assessments, water rates, sewer rents, and other charges and impositions payable by the tenant under the Ground Lease for which provision has not been made hereinbefore, when and as often as the same shall become due and payable. Mortgagor will in every case deliver, or cause to be delivered, a proper receipt for any such item so paid and will within ten (10) days after the time when such payment shall be due and payable deliver to Mortgagee, a copy of the receipts for any such payments, subject to Mortgagor's right to contest such items as contained herein. Mortgagor further covenants and agrees to faithfully perform all of its obligations under the Ground Lease and to refrain from any action or inaction which would impair or tend to impair the security of this Mortgage, would be grounds for declaring a forfeiture of the Ground Lease or result in termination of the Ground Lease or result in the diminution of the value of the leasehold or the rents or revenues derived thereunder. Mortgagor shall not, without the prior written consent of Mortgagee in each instance, (i) materially change, amend, modify, or assign in any manner whatsoever the Ground Lease; (ii) except as permitted by the terms of this Mortgage, mortgage, hypothecate, or otherwise encumber the Ground Lease or the leasehold in any manner whatsoever; (iii) waive, execute, condone or in any way release or discharge the Ground Lessor or the lessor under the Ground Lease of or from the obligations, covenants, conditions and agreements by any such lessor to be done and performed; or (iv) terminate or cancel, surrender or permit a surrender of the Ground Lease. Mortgagor expressly releases, relinquishes and surrenders to Mortgagee all of its rights, power and authority to cancel, surrender, materially amend, modify or alter in any way the terms and provisions of the Ground Lease and any attempt on the part of Mortgagor to exercise any such right without the prior written approval and consent of Mortgagee shall constitute a Default hereunder and the entire Mortgage Debt shall, at Mortgagee's option, become due and payable immediately and without notice. Mortgagor shall not consent to any waiver, modification or cancellation of the Ground Lease or to the subordination of the leasehold to any mortgage of the fee interest of the Ground Lessor or a successor lessor under the Ground Lease.

c. Merger of Leasehold and Fee; Effect on Mortgage.

Mortgagor covenants and agrees that there shall be no merger of the leasehold and the fee interest in the Real Estate or any part thereof, notwithstanding the union of said estates either in the Ground Lessor, Mortgagor, or any third party and that the Ground Lease and the leasehold shall not terminate by reason that

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the Leasehold or any interest therein may be held by or for the account of any person or persons who shall be the owner of any part of the fee interest in the Premises or otherwise. If Mortgagor acquires a fee title to the Real Estate, any part thereof or any interest in the Real Estate greater than that demised by the Ground Lease at any time prior to the payment of the entire Mortgage Debt, this Mortgage shall automatically attach to and cover and be a lien upon such fee title or other estate, and such fee interest or other estate so acquired by Mortgagor shall be considered as mortgaged, assigned or conveyed to Mortgagee and the lien hereof spread to cover such estate with the same force and effect as though specifically herein mortgaged, assigned or conveyed, and spread. Nothing herein contained shall be construed as authorizing the sale by Mortgagor of any part of the leasehold.

d. Mortgagee's Right to Consent and Exercise Remedies.

Mortgagor covenants and agrees that it shall not grant or withhold any consents or approvals and shall not waive any rights under the Ground Lease without the prior written consent of Mortgagee. Mortgagor further covenants and agrees that Mortgagee shall have the right, in its sole and absolute discretion, to exercise any remedies of Mortgagor under the Ground Lease and to grant or withhold any consents or approvals which Mortgagor is entitled to grant or withhold under the Ground Lease in its own name or in the name of and on behalf of Mortgagor.

e. Delivery of Notices of Default and Other Documents.

Mortgagor shall enforce the obligations of the lessor under the Ground Lease and shall immediately notify Mortgagee in writing of any default by said lessor or by Mortgagor, as the case may be, and shall immediately advise Mortgagee in writing of the occurrence of any of the events of default enumerated in the Ground Lease and shall immediately deliver to Mortgagee a copy of any notice of default given by said lessor to Mortgagor pursuant to the Ground Lease. If the lessor under the Ground Lease delivers to Mortgagee a copy of any notice of default given to Mortgagor, such notice shall constitute full authority and protection to Mortgagee for any action taken or omitted to be taken by Mortgagee in good faith reliance thereon. Mortgagor also shall furnish Mortgagee within ten (10) days of Mortgagee's written request any and all information which Mortgagee may request concerning Mortgagor's performance of its obligations pursuant to the Ground Lease, including, without limitation, certified copies of the Ground Lease, an estoppel certificate from each lessor under the Ground Lease in form and substance satisfactory to Mortgagee, and all documentary evidence received by Mortgagor showing compliance with the provisions of the Ground Lease. Mortgagor's failure to comply with any of the provisions of this Paragraph 10A.e shall constitute

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a Default and the Mortgage Debt shall, at Mortgagee's option, immediately become due and payable.

f. Eviction Proceedings.

If any action or proceeding shall be instituted to evict Mortgagor or to recover possession of the Premises, or any part thereof, or for any other purpose affecting the Ground Lease or this Mortgage, Mortgagor immediately shall deliver to Mortgagee a true copy of each petition, summons, complaint, notice of motion, order to show cause and all other provisions, pleadings and papers, however designated, served in any such action or proceeding.

g. Effect of Release or Forbearance.

No release or forbearance of any of Mortgagor's obligations under the Ground Lease, pursuant to the Ground Lease or otherwise, including its obligation to pay rent as provided in the Ground Lease and the performance of all of the terms, provisions, covenants, conditions and agreements contained in the Ground Lease, to be kept, performed and complied with by Mortgagor, shall release Mortgagor from any of its obligations under this Mortgage, except with respect to any obligations so released under the Ground Lease.

h. Ground Lease Payments.

Mortgagor shall furnish to Mortgagee, upon written demand, proof of payment of all items which are required to be paid by Mortgagor pursuant to the Ground Lease. To the extent permitted by law, the price payable by Mortgagor, or by any other party so entitled, in the exercise of the right of redemption of the Ground Lease, if any, shall include all rents paid and other sums advanced by Mortgagee, on behalf of Mortgagor, as tenant under the Ground Lease.

i. Mortgagee's Right to Cure Ground Lease Defaults.

Mortgagor shall execute and deliver such instruments as Mortgagee may reasonably deem useful or necessary to (i) permit Mortgagee to cure any default under the Ground Lease, (ii) permit Mortgagee to take such actions as necessary to remedy the matter in default, (iii) preserve the interest of Mortgagee in the Premises in accordance with the terms of the Mortgage and the Ground Lease, and (iv) insure Mortgagee has the right to have a new lease given in Mortgagee's favor if the Ground Lease is terminated for reasons beyond Mortgagee's control.

j. Lessor's Rights.

Subject to the terms of the Ground Lease, if Mortgagee or

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purchaser at a foreclosure sale shall acquire Mortgagor's interest in the Premises, the Ground Lease shall continue in full force and effect and the Mortgagee or purchaser shall be fully bound by the provisions of the Ground Lease. The Mortgagee or purchaser at foreclosure may not appoint a party other than itself to operate on its behalf without the prior written approval of the Ground Lessor under the Ground Lease, subject to the rights of the Senior Lenders.

The rights of the Mortgagee shall be conditioned upon the Mortgagee providing the Ground Lessor, prior to any foreclosure sale or deed in lieu of foreclosure, notice of the intent to foreclose the Loan and giving the Ground Lessor the opportunity to redeem the leasehold, for an amount not in excess of the fair market value of the leasehold, less expenses associated with the foreclosure of the Loan. Such an offer shall remain open for twenty-one (21) days following written notice to the Ground Lessor.

If the Ground Lessor takes advantage of the option, the Ground Lessor shall acquire an interest in the leasehold equivalent to the Mortgagor's interest which would have been extinguished by the loan foreclosure. If the Ground Lessor does not elect to redeem the leasehold interest being foreclosed, through failure to act within 21 days or through written notice of an intent not to redeem, then the Mortgagee shall be permitted to proceed with loan foreclosure.

k. Bankruptcy Determinations.

If any lessor under the Ground Lease becomes the subject of a bankruptcy proceeding, subject to the rights of the Senior Lenders, Mortgagor assigns and transfers to Mortgagee and gives to and confers upon Mortgagee, the right, power and authority to make any and all elections or determinations which Mortgagor now has or at any time may have the right to make with respect to the Ground Lease under or pursuant to the Federal Bankruptcy Act. Mortgagor shall execute and file such documents and instruments as shall be necessary to give effect to any such election or determination made by Mortgagee but shall not otherwise act in any manner with respect to any such election or determination without first obtaining Mortgagee's written consent to such action. Mortgagor shall give Mortgagee immediate written notice of the actual or threatened commencement of any proceedings which may give rise to the right to make any such election or determination and shall deliver to Mortgagee copies of any and all papers served in connection therewith. Mortgagee may make any such election or determination as it shall desire in its sole discretion.

l. Attorney-in-Fact.

Promptly upon request by Mortgagee, Mortgagor shall execute, acknowledge and deliver any instruments, documents, consents,

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approvals or other agreements which Mortgagee, in its sole and absolute discretion, deems necessary or desirable in order to enable Mortgagee to exercise the rights granted in this Paragraph 10A; provided, however, no such instruments, documents, consents, approvals or other agreements shall change the economic terms of the transaction described in this Mortgage or expand the liabilities of the parties under this Mortgage. In furtherance of the foregoing, Mortgagor hereby appoints Mortgagee its attorney-in-fact, which appointment is irrevocable and shall be deemed to be coupled with an interest, to execute, acknowledge and deliver in the name of Mortgagor any of the instruments, documents, consents, approvals, waivers or other agreements referred to in this Paragraph 10A.

11. Events of Default.

Upon the occurrence of any one or more of the following events (each, a "Default"), the whole of the Mortgage Debt and any other amounts payable to Mortgagee pursuant to this Mortgage shall immediately become due and payable at the option of Mortgagee, its successors and assigns, and Mortgagee shall have the right to an order of court directing Mortgagor to specifically perform its obligations under this Mortgage, the irreparable injury to Mortgagee and inadequacy of any remedy at law being expressly recognized by Mortgagor (subject to the terms of Paragraph 12 hereunder:

(a) A default in the payment of any installment, fee or charge under the Note that continues uncured for fifteen (15) days after such payment is due;

(b) A material default by Mortgagor in the observance or performance of any covenants, agreements or conditions contained, required to be kept or observed under any of the Loan Documents, other than the Note and this Mortgage, or any other instrument evidencing, securing or relating to the Loan not cured within the time, if any, specified in such Loan Document. If such condition is not reasonably curable despite Mortgagor's reasonable efforts to cure it within the time period set forth in the applicable Loan Documents, Mortgagor shall have such additional time as is reasonably necessary to cure such condition so long as Mortgagor continues to make every diligent effort to cure it. In no event, however, shall Mortgagor have more than one hundred twenty (120) days to cure such default.

(c) A default by Mortgagor, declared by any or all of the Senior Lenders, continuing beyond all applicable cure periods, under the Senior Loan Documents and permitting foreclosure under them;

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(d) Failure to exhibit to Mortgagee, within thirty (30) days after Mortgagee has made written demand for them, receipted bills showing the payment of all real estate taxes, assessments, water rates, sewer, gas or electric charges, insurance premiums, or any charge or imposition, subject to Mortgagor's right to contest pursuant to **Paragraph 6** hereof;

(e) Failure to pay, on or before the due date, any real estate tax, assessment, water rate, sewer, gas or electric charge, insurance premium, any reserve required by Mortgagee, or any charge or imposition that is or may become a lien on the Development (other than a failure to pay any charge on any real property that is neither owned nor controlled by Borrower, for which a proper subdivision has been filed and which is not included in the Real Estate but is classified by Cook County, Illinois for real estate tax purposes under a property identification number that also is used to identify a portion of the Real Estate), subject to Mortgagor's right to contest pursuant to **Paragraph 6** hereof;

(f) Failure to comply with the terms contained in **Paragraph 29** below within sixty (60) days after written notice and demand given by Mortgagee (the "Compliance Period"). If any demand concerns the payment of any tax or assessment, and such payment is due prior to the expiration of the Compliance Period, then Mortgagor shall pay the tax or assessment prior to such date;

(g) Failure on the part of Mortgagor, after completion of the construction or improvement of the Development, within thirty (30) days after written notice from Mortgagee to Mortgagor, (i) to maintain the Development in a rentable and tenantable state of repair; (ii) to maintain the Development in a status required by any federal, state or local governmental entity having jurisdiction over the Development after notice of a violation of law is given by such governmental entity; and (iii) to comply with all or any of the statutes, requirements, orders or decrees of any federal, state or local entity relating to the use of the Development, or of any part thereof. If the condition is not reasonably curable despite Mortgagor's diligent efforts to cure such condition within such thirty (30) days, Mortgagor shall have such additional time as is reasonably necessary to cure such condition so long as Mortgagor continues to make every diligent effort to cure it; in no event, however, shall Mortgagor have more than the lesser of one hundred twenty (120) days or the time allotted by the federal, state or local entity having jurisdiction over the Development to cure such condition;

(h) Failure to permit Mortgagee, its agents or representatives, at any and all reasonable times and upon prior written notice, to inspect the Development, or to examine and make copies of the books and records of Mortgagor;

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(i) If a petition in bankruptcy is filed by or against Mortgagor, or a receiver or trustee of the property of Mortgagor is appointed, or if Mortgagor makes an assignment for the benefit of creditors or is adjudicated insolvent by any state or federal court. In the case of an involuntary petition, action or proceeding for the adjudication as a bankrupt or for the appointment of a receiver or trustees of the property of Mortgagor not initiated by Mortgagor, Mortgagor shall have ninety (90) days after the service of such petition or the commencement of such action or proceeding, as the case may be, within which to obtain a dismissal of such petition, action or proceeding, provided that Mortgagor is not otherwise in default under the terms of this Mortgage, including, but not limited to, the payment of interest, principal and any other payments due under the Note or this Mortgage;

(j) Failure to comply with the Act or the Trust Fund Act, the Rules, the Trust Fund Rules and any rules, policies and procedures and regulations duly promulgated from time to time by Mortgagee in connection with the Act or the Trust Fund Act within thirty (30) days after Mortgagee gives Mortgagor written notice of such failure. If the failure is not reasonably curable despite Mortgagor's diligent efforts to cure it within such thirty (30) day period, Mortgagor shall have such additional time as is reasonably necessary to cure that failure so long as Mortgagor continues to make every diligent effort to cure it. In no event, however, shall Mortgagor have more than one hundred twenty (120) days to cure it;

(k) The occurrence of a Prohibited Transfer; however, if such Prohibited Transfer does not, in Mortgagee's sole judgment, endanger the lien granted under this Mortgage, Mortgagor shall have thirty (30) days after Mortgagee gives Mortgagor notice of such default to cure it; or

(l) A material default in the performance or a material breach of any of the other covenants or conditions contained, required to be kept or observed in any of the provisions of this Mortgage not cured within thirty (30) days after written notice to Mortgagor; however, if such default is of a nature such that it cannot be cured within thirty (30) days, then, so long as the cure is commenced within such thirty (30) day period, and Mortgagor continues diligently to pursue it in good faith, it shall not be considered to be a Default. In no event, however, shall Mortgagor have more than one hundred twenty (120) days to cure such default.

If, while any insurance proceeds or Awards (as defined in Paragraph 21 hereof) are being held by Mortgagee to reimburse Mortgagor for the cost of rebuilding or restoring of buildings or improvements on the Development, Mortgagee is or becomes entitled

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to accelerate the Mortgage Debt and exercises that right, then, subject to the rights of the Senior Lenders, Mortgagee shall be entitled to apply all such insurance proceeds and Awards in reduction of the Mortgage Debt, and any excess held by it over the Mortgage Debt then due shall be returned to Mortgagor, or any party entitled to it, without interest.

12. Mortgagee's Remedies.

To the extent provided in this Mortgage, and subject to the rights of the Senior Lenders, the rents, issues and profits of the Development are specifically mortgaged, granted, pledged and assigned to Mortgagee as further security for the payment of the Mortgage Debt. Upon a Default (after all applicable notice and cure periods), the holder of the Note and this Mortgage, as attorney-in-fact of Mortgagor or the then owner of the Development, shall have all the powers, rights, remedies and authority of Mortgagor, as the landlord of the Development, with power to institute mortgage foreclosure proceedings, to eject or dispossess tenants and to rent or lease any portion or portions of the Development. In such event, Mortgagor shall, subject to the rights of the Senior Lenders, on demand, surrender possession of the Development to the holder of this Mortgage, and such holder may enter upon the Development and rent or lease the Development on any terms approved by it, and may collect all the rents from it that are due or become due, and may apply them, after payment of all charges and expenses, including the making of repairs that, in its judgment, may be necessary, on account of the Mortgage Debt, subject to the rights of the Senior Lenders. The rents and all leases existing at the time of such Default (after all applicable notice and cure periods) are assigned to the holder of this Mortgage as further security for the payment of the Mortgage Debt, subject to the rights of the Senior Lenders. In the case of a Default (after all applicable notice and cure periods), the holder of this Mortgage, by virtue of such right to possession or as the agent of Mortgagor, and subject to the rights of the Senior Lenders and applicable law, may dispossess by legal proceedings, or other legally available means, any tenant defaulting in the payment to the holder of this Mortgage of any rent, and Mortgagor irrevocably appoints the holder of this Mortgage as its agent for such purposes. If the then owner of the Development is an occupant of any part of the Development, such occupant agrees, subject to the rights of the Senior Lenders, to surrender possession of the Development to the holder of this Mortgage immediately upon any such Default; if such occupant remains in possession, the possession shall be as tenant of the holder of this Mortgage, and such occupant agrees to pay in advance to the holder of this Mortgage a monthly rental determined by the holder of this Mortgage (in its sole discretion) for the portion of the Development so occupied, and in default of so doing, such occupant may also be

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dispossessed by the usual summary proceedings. Mortgagor makes these covenants for itself and, to the extent possible, for any subsequent owner of the Development. The covenants of this **Paragraph 12** shall become effective immediately after the happening of any Default, solely on the determination of the then holder of this Mortgage, who shall give notice of such determination to the Mortgagor or the then owner of the Development. In the case of foreclosure or the appointment of a receiver of rents, the covenants in this **Paragraph 12** shall inure to the benefit of the holder of this Mortgage or any such receiver. In addition to the provisions of this **Paragraph 12**, if and when Mortgagee is placed in possession, Mortgagee shall have all rights, powers, immunities and duties as provided for in Sections 15-1701 and 15-1703 of the Foreclosure Law. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, unless a Senior Lender has commenced and is pursuing a foreclosure proceeding against the Development, as provided in the Senior Loan Documents, Mortgagee shall not exercise its foreclosure remedy provided herein, except that Mortgagee may exercise equitable remedies available to it under the Regulatory Agreement in the event of a default of Mortgagor under the Regulatory Agreement.

Any of Mortgagor's limited partners shall be permitted to cure a default in the manner set forth herein and Mortgagee shall accept such cure.

13. Foreclosure; Expense of Litigation.

Subject to the rights of the Senior Lenders, when the Mortgage Debt, or any part of it, becomes due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien of this Mortgage for all or any part of the Mortgage Debt. In any civil action to foreclose the lien of this Mortgage, in the order or judgment for sale there shall be allowed and included as additional Mortgage Debt all expenditures and expenses that may be paid or incurred by or on behalf of Mortgagee, including, but not limited to, reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the order or judgment) of procuring all such abstracts of title, title searches and examinations, title insurance policies, surveys, and similar data and assurances with respect to title as Mortgagee may deem reasonably necessary, either to prosecute such civil actions or to evidence to bidders at any sale that may occur pursuant to such order or judgment, the true condition of the title to or the value of the Development. All expenditures and expenses of the nature mentioned in this **Paragraph 13**, and such reasonable expenses and fees as may be incurred in the protection of the Development and maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by

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Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or the Development, including probate, bankruptcy and appellate proceedings, or in preparations for the commencement or defense of any proceeding or threatened civil actions or proceeding, shall be immediately due and payable by Mortgagor, with interest on them at the Default Rate, as specified in the Note, and shall be secured by this Mortgage.

14. Application of Proceeds of Foreclosure Sale.

Subject to the rights of the Senior Lenders, the proceeds of any foreclosure sale of the Development shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Paragraph 13 hereof; second, all other items that may, under the terms of this Mortgage, constitute secured indebtedness additional to the Mortgage Debt, with any Default Interest (as defined in the Note) due on them, as provided in this Mortgage; third, any late fees; fourth, all accrued interest and any accrued Default Interest remaining due and unpaid on the Note; fifth, all principal remaining unpaid on the Note; and sixth, any surplus to Mortgagor, its successors or assigns, as their rights may appear.

15. Appointment of Receiver.

Mortgagor agrees that, upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Development. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the Development, and the Mortgagee or any holder of the Note may be appointed as such receiver. Such receiver shall have the power to collect the rents, issues and profits of the Development during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits; such receiver shall have all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Development during the whole of such redemption period. The court, from time to time, may authorize the receiver to apply the net income from the Development that is in its possession in payment in whole or in part of: (a) the Mortgage Debt, or any judgment or order foreclosing this Mortgage, or any tax, special assessment or other lien that may be or become superior to the lien hereof or of such decree, provided such application is made prior to a

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foreclosure sale of the Development; (b) any deficiency arising out of a sale of the Development. In addition to the powers granted by this Paragraph 15, such receiver shall have all rights, powers, immunities and duties as provided for in Sections 15-1701 and 15-1703 of the Foreclosure Law.

16. Protective Advances.

All advances, disbursements and expenditures made or incurred by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the Foreclosure Law (collectively, "Protective Advances"), shall have the benefit of all applicable provisions of the Foreclosure Law, including the following provisions:

(a) all advances by Mortgagee in accordance with the terms of the Mortgage to: (i) preserve, maintain, repair, restore or rebuild the Development; (ii) preserve the lien of the Mortgage or its priority; or (iii) enforce the Mortgage, all as referred to in subsection (b) (5) of Section 15-1302 of the Foreclosure Law;

(b) payments by Mortgagee of: (i) principal, interest or other obligations in accordance with the terms of the Senior Mortgages; (ii) real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever that are assessed or imposed upon the Development or any part of it; (iii) other obligations authorized by the Mortgage; or (iv) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Foreclosure Law;

(c) advances by Mortgagee in settlement or compromise of any claims asserted by claimants under the Senior Mortgages or any other prior liens;

(d) reasonable attorneys' fees and other costs incurred (i) in connection with the foreclosure of the Mortgage as referred to in Section 1504(d)(2) and 15-1510 of the Foreclosure Law; (ii) in connection with any action, suit or proceeding brought by or against Mortgagee for the enforcement of the Mortgage or arising from the interest of Mortgagee under the Mortgage; or (iii) in preparation for or in connection with the commencement, prosecution or defense of any other action related to the Mortgage or the Development;

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(e) Mortgagee's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Section 15-1508(b)(1) of the Foreclosure Law;

(f) expenses deductible from proceeds of sale, as referred to in Sections 15-1512(a) and (b) of the Foreclosure Law;

(g) expenses incurred and expenditures made by Mortgagee in connection with any one or more of the following: (i) if the Development or any portion of it constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner; (ii) if Mortgagor's interest in the Development is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (iii) premiums for casualty and liability insurance paid by Mortgagee, whether or not Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals of such insurance, without regard to the limitation of maintaining existing insurance in effect at the time any receiver or Mortgagee takes possession of the Development imposed by Section 15-1704(c)(1) of the Foreclosure Law; (iv) repair or restoration of damage or destruction in excess of available insurance proceeds or Awards; (v) payments Mortgagee deems necessary for the benefit of the Development or that the owner of the Development is required to make under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Development; (vi) shared or common expense assessments payable to any association or corporation in which the owner of the Development is a member that affect the Development; (vii) if the Loan is a construction loan, costs incurred by Mortgagee for demolition, preparation for and completion of construction, as may be authorized by the applicable commitment, loan agreement or other agreement; (viii) payments that Mortgagee or Mortgagor must make pursuant to any lease or other agreement for occupancy of the Development; and (ix) if the Mortgage is insured, payments of FHA or private mortgage insurance that are required to keep such insurance in force.

All Protective Advances shall, except to the extent clearly contrary to or inconsistent with the provisions of the Foreclosure Law, apply to and be included in:

(h) any determination of the amount of the Mortgage Debt at any time;

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(i) the indebtedness found due and owing to Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment; Mortgagor agrees that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(j) computation of amounts required to redeem, pursuant to subsections 15-1603(d)(2) and (e) of the Foreclosure Law;

(k) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Foreclosure Law; and

(l) application of income in the hands of any receiver or Mortgagee in possession.

17. Waiver of Redemption.

Mortgagor acknowledges that the Development does not constitute Agricultural Real Estate, as defined in Section 15-1201 of the Foreclosure Law, or Residential Real Estate as defined in Section 15-1219 of the Foreclosure Law. Pursuant to Section 15-1601(b) of the Foreclosure Law, Mortgagor waives any and all right of redemption under any order or decree of this Mortgage on behalf of Mortgagor, and each and every person, except decree or judgment creditors of Mortgagor, in its representative capacity, acquiring any interest in or title to the Development subsequent to the date of this Mortgage to the extent permitted by law.

18. Rights Cumulative.

Each right, power and remedy conferred by this Mortgage upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power and remedy set forth in this Mortgage or otherwise so existing may be exercised from time to time as often and in such order as Mortgagee may deem expedient. The exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing under this Mortgage or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of or acquiescence in any Default.

19. Effect of Extensions of Time.

If the payment of the Mortgage Debt or any part of it is

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extended or varied, or if any part of any security for the payment of the Mortgage Debt is released or additional security is taken, all persons now or at any time hereafter liable for the Mortgage Debt, or interested in the Development, shall be held to assent to such extension, variation, or taking of additional security or release, and their liability and the lien and all provisions of this Mortgage shall continue in full force.

20. Mortgagee's Right of Inspection.

Mortgagee shall have the right to inspect the Development at all reasonable times, upon advance notice to Mortgagor. Mortgagor shall permit Mortgagee to have access to the Development for that purpose.

21. Condemnation.

Subject to the rights of the Senior Lenders, any award (the "Award") made to the present, or any subsequent, owner of the Development by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Development, is assigned by Mortgagor to Mortgagee. Subject to the rights of the Senior Lenders, Mortgagee may collect any such Award from the condemnation authorities, and may give appropriate acquittance for it. Mortgagor shall immediately notify Mortgagee of the actual or threatened commencement of any condemnation or eminent domain proceedings affecting any part of the Development and shall deliver to Mortgagee copies of all papers served in connection with any such proceedings. Mortgagor shall make, execute and deliver to Mortgagee, at any time upon request, free of any encumbrance, any further assignments and other instruments Mortgagee deems necessary for the purpose of assigning the Award to Mortgagee. Mortgagor shall not approve or accept the amount of any Award or sale price without Mortgagee's approval, confirmed in writing by an authorized officer of Mortgagee. If Mortgagor does not diligently pursue any such actual or threatened eminent domain proceedings and competently attempt to obtain a proper settlement or Award, Mortgagee, at Mortgagee's option, subject to the rights of the Senior Lenders, may take such steps, in the name of and on behalf of Mortgagor, as Mortgagee deems necessary to obtain such settlement or Award, and Mortgagor shall execute such instruments as may be necessary to enable Mortgagee to represent Mortgagor in such proceedings. If any portion of or interest in the Development is taken by condemnation or eminent domain, and the remaining portion of the Development is not, in the judgment of Mortgagee, a complete economic unit that, after restoration, would have equivalent value to the Development as it existed prior to the taking, then, at the option of Mortgagee, the entire Mortgage Debt shall immediately become due. Subject to the rights of the Senior Lenders, Mortgagee, after deducting from the Award all of its

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expenses incurred in the collection and administration of the Award, including reasonable attorneys' fees, shall be entitled to apply the net proceeds of the Award toward repayment of such portion of the Mortgage Debt as it deems appropriate without affecting the lien of this Mortgage. In the event of any partial taking of the Development or any interest in the Development that, in the judgment of Mortgagee, leaves the Development as a complete economic unit having equivalent value, after restoration, to the Development as it existed prior to the taking, and provided Mortgagor is not in Default, the Award shall be applied to reimburse Mortgagor for the cost of restoring and rebuilding the Development in accordance with plans, specifications and procedures approved in advance by Mortgagee, and such Award shall be disbursed in the same manner as is provided in Paragraph 4 for the application of insurance proceeds. If all or any part of the Award is not applied for reimbursement of such costs of restoration and rebuilding, the Award shall, at the option of Mortgagee, be applied against the Mortgage Debt, in such order or manner as Mortgagee elects, or paid to Mortgagor.

22. Release Upon Payment and Discharge of Mortgagor's Obligations.

Mortgagee shall release this Mortgage and the lien thereof by proper instrument(s) in recordable form upon payment and discharge of the Mortgage Debt.

23. Giving of Notice.

Any notice, demand, request or other communication that any party may desire or may be required to give to any other party under this Mortgage shall be given in writing, at the addresses set forth below, by any of the following means: (a) personal service; (b) overnight courier; or (c) registered or certified United States mail, postage prepaid, return receipt requested.

Mortgagor: The Michaels Development Company, Inc.
One East Stow Road
Marlton, New Jersey 08053
Attention: Sinclair Cooper

Brinshore Inc.
666 Dundee Road
Suite 1102
Northbrook, Illinois 60646
Attention: Richard Sciortino

With a courtesy copy to:
Levine, Staller, Sklar, Chan & Brodsky
3030 Atlantic Avenue

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Atlantic City, New Jersey 08401
Attention: Paul T. Chan

and

Applegate & Thorne-Thomsen, P.C.
322 S. Green Street
Suite 412
Chicago, Illinois 60607
Attention: Bennett Applegate

and

The Richman Group Capital Corporation
699 West Putnam Avenue
Greenwich, CT 06830
Attention: David Salzman

Mortgagee: Illinois Housing Development Authority
401 N. Michigan Ave., Suite 900
Chicago, Illinois 60611
Attention: Legal Department

Such addresses may be changed by notice to the other party given in the same manner as provided in this **Paragraph 23**. Any notice, demand, request or other communication sent pursuant to subsection (a) shall be served and effective upon delivery of such personal service. Any notice, demand, request or other communication sent pursuant to subsection (b) shall be served and effective one (1) business day after deposit with the overnight courier. Any notice, demand, request or other communication sent pursuant to subsection (c) shall be served and effective three (3) business days after proper deposit with the United States Postal Service. In connection with the courtesy copy to Levine, Staller, Sklar, Chan & Brodsky; Applegate & Thorne-Thomsen, P.C.; and The Richman Group Capital Corporation; Mortgagee will exercise reasonable efforts to provide copies of any notices given to Borrower; however, Mortgagee's failure to furnish copies of such notices shall not limit Mortgagee's exercise of any of its rights and remedies under the Loan Documents.

Except as otherwise specifically required in this Mortgage, notice of the exercise of any right or option granted to Mortgagor by this Mortgage is not required to be given.

24. Waiver of Defense.

No action for the enforcement of the lien or any provision of this Mortgage shall be subject to any defense that would not be good and available to the party interposing such defense in an

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action at law upon the Note.

25. Illinois Mortgage Foreclosure Law.

All covenants and conditions of this Mortgage, other than those required by Illinois law, shall be construed as affording to Mortgagee rights in addition to, and not exclusive of, the rights conferred under the provisions of the Foreclosure Law. Mortgagor and Mortgagee shall have the benefit of all of the provisions of the Foreclosure Law, including all amendments to it that may become effective from time to time after the date of this Mortgage. To the extent provided by law, if any provision of the Foreclosure Law that is specifically referred to in this Mortgage is repealed, Mortgagee shall have the benefit of such provision as most recently existing prior to such repeal, as though the provision were incorporated in this Mortgage by express reference.

26. Waiver of Statutory Rights.

To the extent permitted by law, Mortgagor shall not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, and waives the benefit of such laws.

Mortgagor, for itself and all who may claim through or under it, waives any and all right to have the property and estates comprising the Development marshaled upon any foreclosure of the lien hereof, and agrees that any court having jurisdiction to foreclose such lien may order the Development sold as an entirety.

27. Furnishing of Financial Statements to Mortgagee.

Mortgagor shall keep and maintain books and records of account in which full, true and correct entries shall be made of all dealings and transactions relative to the Development. Such books of record and account shall be kept and maintained in accordance with generally accepted accounting practice consistently applied and shall, at reasonable times, and on reasonable notice, be open to the inspection of Mortgagee and its accountants and other duly authorized representatives.

28. Filing and Recording Fees.

Mortgagor shall pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage and the other Loan Documents and all applicable federal, state, county, and municipal taxes, and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage and the other Loan Documents.

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29. Effect of Changes in Laws Regarding Taxation.

If, after the date of this Mortgage, by the laws of the United States of America, the State of Illinois, or of any municipality having jurisdiction over Mortgagee or the Development, any tax is imposed or becomes due in respect of the issuance of the Note or the recording of this Mortgage, Mortgagor shall pay such tax in the manner required by such law. If any law, statute, rule, regulation, order or court decree has the effect of requiring the Mortgagee to pay all or any part of the taxes or assessments or charges or liens that this Mortgage requires Mortgagee to pay, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Mortgagee's interest in the Development, or the manner of collection of taxes, so as to affect this Mortgage or the Mortgage Debt or the holders of them, then Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessments within sixty (60) days of receipt of Mortgagee's demand, or reimburse Mortgagee for such payments.

30. Business Purpose.

Mortgagor recognizes and agrees that the proceeds of the Loan will be used for the purposes specified in 815 ILCS 205/4 of the Illinois Compiled Statutes, and that the Loan constitutes a "business loan" within the purview of that Paragraph.

31. Miscellaneous.

a. This Mortgage, and all of its provisions, shall extend to and be binding upon Mortgagor and its successors, grantees and assigns, any subsequent owner or owners of the Development and all persons claiming under or through Mortgagor, and the word "Mortgagor", when used in this Mortgage, shall include all such persons and all persons liable for the payment of all or any part of the Mortgage Debt, whether or not such persons have executed the Note or this Mortgage. The word "Mortgagee," when used in this Mortgage, shall include the successors and assigns of Mortgagee, and the holder or holders, from time to time, of the Note.

b. If one or more of the provisions contained in this Mortgage or the Note, or in any of the other Loan Documents, is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of Mortgagee, not affect any other provision of this Mortgage, and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained in the Mortgage or the Note, as the case may be. This Mortgage, the Note and the other Loan Documents are to be construed and governed by the laws of the State of Illinois, exclusive of its conflict of

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laws provisions.

c. Mortgagor shall not, by act or omission, permit any building or other improvement comprising the Development, not subject to the lien of this Mortgage, to rely on the Development or any part of or any interest in it to fulfill any municipal or governmental requirement, and Mortgagor assigns to Mortgagee any and all rights to give such consent for all or any portion of the Development or any interest in it to be so used. Similarly, Mortgagor shall not permit the Development to rely on any premises not subject to the lien of this Mortgage or any interest in it to fulfill any governmental or municipal requirement.

d. Subject to the provisions of Paragraphs 12 and 13, Mortgagee shall have the right, at its option, to foreclose this Mortgage, subject to the rights of any tenant or tenants of the Development, and the failure to make any such tenant or tenants a party defendant to any such civil action or to foreclose their rights shall not be asserted by Mortgagor as a defense in any civil action instituted to collect all or any part of the Mortgage Debt, any statute or rule of law at any time existing to the contrary notwithstanding.

e. At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any award in condemnation) to any and all leases in connection with the Development at such time after the date of this Mortgage that Mortgagee executes and records, in the office in which this Mortgage was recorded or registered, a unilateral declaration to that effect.

f. The failure or delay of Mortgagee, or any subsequent holder of the Note and this Mortgage, to assert in any one or more instances any of its rights under this Mortgage shall not be deemed or construed to be a waiver of such rights.

32. Maximum Indebtedness.

At all times, regardless of whether any Loan proceeds have been disbursed, this Mortgage secures as part of the Mortgage Debt the payment of all loan commissions, service charges, liquidated damages, reasonable attorneys' fees, expenses and advances due to or incurred by Mortgagee in connection with the Mortgage Debt, all in accordance with the Note and this Mortgage. In no event shall the total amount of the Mortgage Debt, including Loan proceeds disbursed plus any additional charges, exceed three hundred percent (300%) of the face amount of the Note. All such advances are intended by the Mortgagor to be a lien on the Development pursuant to this Mortgage from the time this Mortgage is recorded, as

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provided in the Foreclosure Law.

33. Additional Governing Law.

This Mortgage, to the extent inconsistent with the Act and the Trust Fund Act, shall be governed by the Act and the Trust Fund Act, and the rights and obligations of the parties shall at all times be in conformance with the Act and the Trust Fund Act.

34. Non-Recourse Loan.

Notwithstanding anything in this Mortgage to the contrary, the Loan is a non-recourse obligation of Mortgagor. Except for losses, costs or damages incurred by Mortgagee for fraud or breach of the Environmental Indemnity, neither Mortgagor nor any of its general or limited partners shall have any personal liability for repayment of the Loan or any other amounts evidenced or secured by the Loan Documents. The sole recourse of Mortgagee under the Loan Documents for repayment of the Loan shall be the exercise of its rights against the Development and the related security interests.

35. Indemnification of Mortgagee.

Mortgagor agrees to defend and indemnify and hold harmless Mortgagee from and against any and all damages, including, but not limited to, any past, present or future claims, actions, causes of action, suits, demands, liens, debts, judgments, losses, costs, liabilities and other expenses, including, but not limited to, reasonable attorneys' fees, costs, disbursements, and other expenses, that Mortgagee may incur or suffer by reason of or in connection with the Real Estate or the Development or the Project, other than such damages as may arise due to, and only to the extent they do arise from the gross negligence or willful misconduct of Mortgagee. Mortgagor further agrees that Mortgagee, if it so chooses, shall have the right to select its own counsel with respect to any such claims.

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21419233

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed by its authorized representative.

MORTGAGOR:

WEST MAYPOLE, L.P.,
an Illinois limited partnership

By: West Maypole Partners, LLC
an Illinois limited liability
company
Its General Partner

By: Brinshore Inc., an
Illinois corporation
Its: Member

By: David B. Brint
David B. Brint
Its President

By: The Michaels Development
Company, Inc., a New
Jersey corporation
Its: Member

By: John J. O'Donnell
John J. O'Donnell
Its Vice President

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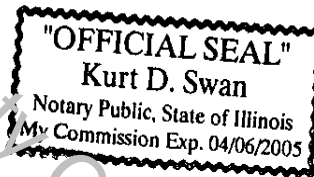
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, certify that David B. Brint, personally known to me to be the President of **BRINSHORE INC.**, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument in his capacity as President of **BRINSHORE INC.**, as his free and voluntary act and deed and as the free and voluntary act and deed of **BRINSHORE INC.**, as member of West Maypole Partners, LLC as the sole general partner of West Maypole, L.P., for the uses and purposes therein set forth.

Given under my hand and official seal this 19 day of December, 2002.



Notary Public



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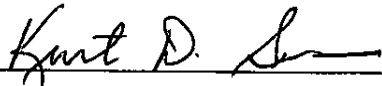
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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

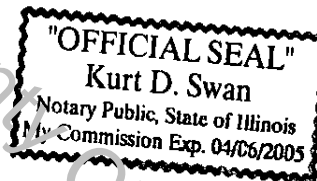
21419233

I, the undersigned, a Notary Public in and for the County and State aforesaid, certify that John J. O'Donnell, personally known to me to be the Vice President of **THE MICHAELS DEVELOPMENT COMPANY, INC.**, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument in his capacity as Vice President of **THE MICHAELS DEVELOPMENT COMPANY, INC.**, as his free and voluntary act and deed and as the free and voluntary act and deed of **THE MICHAELS DEVELOPMENT COMPANY, INC.**, as member of West Maypole Partners, LLC as the sole general partner of West Maypole, L.P., for the uses and purposes therein set forth.

Given under my hand and official seal this 19 day of December, 2002.



Notary Public



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LEGAL DESCRIPTION
(WESTHAVEN PARK - PHASE I)

WEST PARCEL:

LOTS 2, 3, 4, 5, 8, 9, AND 11 IN BELL RESUBDIVISION, BEING A RESUBDIVISION AND CONSOLIDATION OF PART OF CAMPBELL'S SUBDIVISION OF BLOCK 55, AND OF WILSON AND BATES' SUBDIVISION IN CAMPBELL'S SUBDIVISION OF BLOCK 55, INCLUDING EAST-WEST VACATED ALLEY AND VACATED WEST MAYPOLE AVENUE IN SAID BLOCK 55, IN THE CANAL TRUSTEES' SUBDIVISION OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 7, 2002 AS DOCUMENT NUMBER 0021230667, IN COOK COUNTY, ILLINOIS.

PINs: 17-07-317-044
17-07-321-034
17-07-321-035

EAST PARCEL:

LOTS 1, 3, 4, AND 5 IN MAYPOLE RESUBDIVISION BEING A RESUBDIVISION AND CONSOLIDATION IN BLOCKS 2 AND 3 IN PAGE AND WOOD'S SUBDIVISION OF BLOCKS 50, 63 AND 64, IN THE SUBDIVISION OF LOTS 5 AND 6 IN SAID BLOCK 3 IN PAGE AND WOOD'S SUBDIVISION, INCLUDING EAST-WEST VACATED ALLEYS AND VACATED WEST MAYPOLE AVENUE, IN THE CANAL TRUSTEES' SUBDIVISION OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 7, 2002 AS DOCUMENT NUMBER 0021230668, IN COOK COUNTY, ILLINOIS.

PINs: 17-07-418-022
17-07-418-023
17-07-423-012
17-07-423-013
17-07-423-001

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